IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

Writ Petition No.1407 of 2007
[N.C. Patil Vs. Smt. P.N. Patil]

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

Mr. R.D. Bhuibhar, Advocate for the petitioner.
Mr. M.B. Naidu, Adv., for respondent.

CORAM : A.B.CHAUDHARI, J.

DATE : 17th September,2007.

Heard.

Learned Counsel for the petitioner prays for withdrawal of the application [Exh.27] for amendment that was filed before the Family Court in Petition No. A-333/03.

Mr. Naidu, learned counsel for the respondent, opposes the said request on the ground that the petitioner took chance of filing this application, and having failed in his attempt, now, he cannot be allowed to withdraw this application.

In my opinion, looking to the exhaustive amendment which the petitioner desires to effect and the petitioner having

failed to indicate the reasons for filing the application at a belated stage without explaining the reasons for not presenting those facts in the proposed amendment any time before with due diligence, it would be in the interest of justice to allow the petitioner to withdraw the application [Exh.27] with liberty to file a fresh application before the Family Court for fresh consideration, with a further liberty to the respondent-wife to contest the same on its own merits.

In the light of above, application [Exh.27] in Petition No. A-333 of 2003 is allowed to be withdrawn and consequently the order dated 12th February, 2007 passed below Exh. 27 is quashed and set aside. The petitioner is permitted to file a fresh application for amendment if so advised. In the event of filing of such application, the respondent has liberty to contest the said application in accordance with law. In case the petitioner does not file such application for amendment afresh within four weeks from today, the impugned order shall stand.

The petitioner to pay a cost of Rs. 500-00 [rupees five hundred only] to the respondent.

Judge

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